

# भारत का राजपत्र

## The Gazette of India



असाधारण

EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या की जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed  
as a separate compilation

## LOK SABHA

The following Bills were introduced in Lok Sabha on the 22nd December, 1977:—

BILL No. 152 of 1977

*A Bill to provide for restructuring of the iron and steel companies in the public sector so as to secure better management and greater efficiency in their working and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

**1. (1)** This Act may be called the Public Sector Iron and Steel Companies (Restructuring) and Miscellaneous Provisions Act, 1977

Short title and commencement.

**2.** It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. (1)** In this Act, unless the context otherwise requires,—

Definitions.

(a) “appointed day” means the date on which this Act comes into force;

(b) “Companies Act” means the Companies Act, 1956;

(c) “corresponding unit”, in relation to,—

(i) the Integral Company, means that unit of the Integral Company which corresponds to the unit of the dissolved company or the transferred company in which the concerned officer

or other employee was holding office before the transfer of the said unit;

(ii) a transferee company, means that unit of a transferee company which corresponds to the unit of the dissolved company in which the concerned officer or other employee was holding office, before the transfer of the said unit;

(d) "dissolved company" means a company specified in the First Schedule;

(e) "Integral Company" means the Steel Authority of India Limited, a company formed and registered under the Companies Act having its registered office at New Delhi;

(f) "transferee company" means the company to which the undertakings of a dissolved company or of a transferred unit, as the case may be, stand transferred by virtue of the provisions of this Act;

(g) "transferred company" means,—

(i) Metallurgical and Engineering Consultants (India) Limited, a company formed and registered under the Companies Act having its registered office at Ranchi in the State of Bihar;

(ii) National Mineral Development Corporation Limited, a company formed and registered under the Companies Act having its registered office at Hyderabad in the State of Andhra Pradesh;

(iii) Hindustan Steelworks Construction Limited, a company formed and registered under the Companies Act having its registered office at Calcutta in the State of West Bengal;

(iv) Bharat Refractories Limited, a company formed and registered under the Companies Act having its registered office at Bokaro Steel City in the State of Bihar; or

(v) India Firebricks and Insulation Company Limited, a company formed and registered under the Companies Act having its registered office at Bombay in the State of Maharashtra;

(h) "transferred unit" means,—

(i) Kiriburu Iron Ore Mines, a unit of the National Mineral Development Corporation Limited;

(ii) Meghahatuburu Iron Ore Project, a unit of the National Mineral Development Corporation Limited;

(iii) Ramgarh Refractory Plant, a unit of the Hindustan Steel Limited (situated near Ramgarh in the State of Bihar);

(iv) Refractory Project, a unit of the Hindustan Steel Limited (situated at Bhilai in the State of Madhya Pradesh); or

(v) Sillimanite Mines, a unit of the Hindustan Steel Limited (situated in the State of Meghalaya)

(2) Words and expressions used herein and not defined but defined in the Companies Act have the meanings respectively assigned to them in that Act

3 For the purposes of this Act, the undertaking of a dissolved company or of a transferred unit shall be deemed to include all assets, rights, leaseholds (including mining leases, if any), industrial or other licences, powers, authorities and privileges and all property, movable and immovable.

able, including lands, buildings, works, mines, workshops, projects, smelters, stores, instruments, machinery, automobiles and other vehicles, cash or bank balances, cash in hand, investments and book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the dissolved company or the transferred unit, as the case may be (whether within or without India), and all books of account, registers, maps, drawings, records of survey and all other documents of whatever nature relating thereto, and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind of the dissolved company or the transferred unit.

*Explanation.*—Reference in this section to an undertaking of a transferred unit shall be deemed to be a reference to the undertaking of the company of which that forms a unit as is relatable to it as if it were a separate company.

## CHAPTER II

### DISSOLUTION, TRANSFER AND VESTING OF UNDERTAKINGS OF CERTAIN COMPANIES

**4.** On the appointed day, the companies specified in the First Schedule shall stand dissolved and subject to the provisions of sections 6 and 7, all the undertakings of such companies shall stand transferred to, and vest in, the Integral Company.

Dissolu-  
tion,  
transfer  
and vest-  
ing of  
undertak-  
ing of  
certain  
compa-  
nies in  
Integral  
Com-

**5.** On the appointed day, the undertakings of the following transferred units shall stand transferred to, and vest in, the Integral Company, namely:—

(a) Kiriburu Iron Ore Mines, a unit of the National Mineral Development Corporation Limited, and

(b) Meghahatuburu Iron Ore Project, a unit of the National Mineral Development Corporation Limited.

Transfer  
and vest-  
ing of  
Kiriburu  
Iron Ore  
Mines, etc.  
in Integ-  
ral Com-  
pany.

**6.** (1) On the appointed day, the undertakings of the following transferred units shall stand transferred to, and vest in, the Bharat Refractories Limited, namely:—

(a) Ramgarh Refractory Plant of the Hindustan Steel Limited (situated near Ramgarh in the State of Bihar),

(b) Sillimanite Mines of the Hindustan Steel Limited (situated in the State of Meghalaya), and

(c) Refractory Project of the Hindustan Steel Limited (situated at Bhilai in the State of Madhya Pradesh).

Transfer  
and vest-  
ing of  
Refrac-  
tory Plant  
etc in the  
Bharat  
Refrac-  
tories  
Limited.

(2) Notwithstanding anything contained in the Companies Act, as from the appointed day, the registered office of the Bharat Refractories Limited shall stand transferred from Bokaro Steel City in the State of Bihar to Bhilai in the State of Madhya Pradesh.

Transfer  
of immov-  
able pro-  
perties of  
Hindustan  
Steel  
Limited  
to  
Metallur-  
gical and  
Engineer-  
ing Con-  
sultants  
(India)  
Limited.

7. On the appointed day, the right, title and interest of the Hindustan Steel Limited in the immovable properties owned by it in Ranchi District of the State of Bihar, together with liabilities and obligations in relation thereto, shall stand transferred to, and vest in, the Metallurgical and Engineering Consultants (India) Limited.

Transfer  
of shares  
held by  
Bokaro  
Steel  
Limited  
to Cen-  
tral Gov-  
ernment.

8. On the appointed day, all the shares held by the Bakaro Steel Limited in the share capital of the Bharat Refractories Limited shall stand transferred to, and vest in, the Central Government.

Transfer  
of shares  
held by  
Integral  
Company  
to Cen-  
tral Gov-  
ernment.

9. On the appointed day, all the shares held by the Integral Company in the share capital of each of the companies specified in the Second Schedule shall stand transferred to, and vest in, the Central Government.

Transfer  
of shares  
held by  
Integral  
Company  
to Bharat  
Refrac-  
tories  
Limited.

10. On the appointed day, all the shares held by the Integral Company in the share capital of the India Firebricks and Insulation Company Limited (a company formed and registered under the Companies Act having its registered office at Bombay in the State of Maharashtra) shall stand transferred to, and vest in, the Bharat Refractories Limited.

Transfer  
of shares  
held by  
Central  
Govern-  
ment to  
Integral  
Company.

11. On the appointed day, all the shares held by the Central Government in the share capital of the Indian Iron and Steel Company Limited (a company under the Companies Act having its registered office at Calcutta in the State of West Bengal) shall stand transferred to, and vest in, the Integral Company.

Central  
Govern-  
ment, etc.,  
deemed  
to be  
register-  
ed in the  
register  
of mem-  
bers of  
compa-  
nies.

12. The Central Government, the Bharat Refractories Limited or the Integral Company, as the case may be, shall be deemed, as from the appointed day, to have been registered in the register of members of the companies concerned as the holder of each share which stands transferred to, and vested in each of them by virtue of the provisions of sections 8, 9, 10 or 11, as the case may be.

### CHAPTER III

#### TRANSFER OF SHARES

**13.** (1) The Central Government may, from time to time, by order published in the Official Gazette, specify the amount by which the paid-up share capital of the Integral Company, the Bharat Refractories Limited, the Metallurgical and Engineering Consultants (India) Limited, and the National Mineral Development Corporation Limited shall stand reduced or increased as a result of transfer of shares, undertakings or immovable properties, as the case may be, under the provisions of this Act.

(2) In specifying the amount under sub-section (1), the Central Government shall have regard to the following factors, namely:—

(i) the book value of shares referred to in sections 8, 9, 10 or 11, as the case may be, of the concerned company, on the appointed day,

(ii) the net value of the undertakings of the dissolved company and transferred unit, as on the appointed day, and

(iii) the book value of the immovable properties owned by the Hindustan Steel Limited referred to in section 7 as on the appointed day,

as are transferred to or from the companies referred to in sub-section (1).

(3) Every order made under sub-section (1) shall be made within a period of one year from the appointed day and any such order may take effect prospectively or retrospectively, but not with effect from a date earlier than the appointed day.

(4) Any order made by the Central Government under this section may include a direction for the issue or cancellation of appropriate number of shares so as to give effect to the provisions of this Act.

## CHAPTER IV

### PROVISIONS RELATING TO OFFICERS AND EMPLOYEES

**14.** (1) Every officer (not being a director) or other employee holding office immediately before the appointed day in a dissolved company in relation to any undertaking of such company, other than an officer or other employee holding such office in relation to transferred units referred to in section 6, shall, as from the appointed day, continue to hold office as such in the corresponding unit of the Integral Company by the same tenure and upon the same terms and conditions of service and with the same rights and privileges as to retirement benefits as would have been admissible to him if the company in which he was holding office had not been dissolved and shall continue to do so unless and until such tenure and terms and conditions are duly altered by the Integral Company.

(2) Notwithstanding anything contained in sub-section (1), rules relating to the conditions of service and Standing Orders applicable to the officers or other employees referred to in sub-section (1), as immediately before the appointed day, shall continue to apply unless and until they are duly altered by the Integral Company or other authority, as the case may be.

Power of Central Government to modify amount of paid-up share capital of Integral Company, etc, and issue of shares.

Provisions relating to officers and other employees of dissolved companies.

Provisions relating to officers and employees of transferred units.

15. (1) Every officer or other employee holding office immediately before the appointed day in the transferred unit shall, as from the appointed day, continue to be an officer or other employee of the corresponding unit of the transferee company by the same tenure and upon the same terms and conditions of service and with the same rights and privileges as to retirement benefits as would have been admissible to him if the transferred unit in which he was holding office had not been transferred and shall continue to do so unless and until such tenure and terms and conditions are duly altered by the transferee company.

(2) Notwithstanding anything contained in sub-section (1), rules relating to the conditions of service and Standing Orders applicable to the officers or other employees referred to in sub-section (1), as immediately before the appointed day, shall continue to apply unless and until they are duly altered by the transferee company or other authority, as the case may be.

Provisions relating to directors

16. (1) Every person holding office as a director of a dissolved company immediately before the appointed day shall, on that day, cease to hold office as such director.

(2) Every person, being a director in whole-time employment of a dissolved company, immediately before the appointed day, shall continue to be an employee of the corresponding unit of the Integral Company with such designation and on such terms and conditions as may be determined by the Integral Company.

Provision relating to auditors

17. Every person appointed under section 619 of the Companies Act as an auditor of a dissolved company or of a transferred unit, holding office immediately before the appointed day, may continue to hold office as such auditor in the corresponding unit of the Integral Company or of any other transferee company, as the case may be, for the duration for which he was so appointed on the same terms and conditions as were applicable to him immediately before the appointed day.

Compensation for transfer not payable.

18. Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of services of any officer or other employee shall not entitle such officer or other employee to any compensation under that Act or under any other law for the time being in force and no claim for such compensation shall be entertained by any court, tribunal or other authority.

14 of 1947.

Provident fund.

19. Where a provident fund has been established by a dissolved company or any other company in respect of a transferred unit for the benefit of the employees and the same stands vested in a trust, the moneys and other assets standing to the credit of each provident fund shall continue to be held in trust with the same objects as were applicable before the appointed day and the trustees of such trusts immediately before the appointed day shall, subject to the provisions of the trust deeds and the rules relating to such trusts, continue to function as trustees in respect of such provident fund of the corresponding unit of the Integral Company or of other transferee company, as the case may be, as if this Act had not been passed:

Provided that the right to nominate trustees and other rights relating to the trusts vested in the dissolved company or other company in respect

of the transferred unit, as the case may be, shall vest in the Integral Company or other transferee company, as the case may be.

**20.** Where any gratuity, welfare or other fund has been established by a dissolved company or any other company in respect of a transferred unit for the benefit of its employees and is in existence immediately before the appointed day, all moneys and other assets standing to the credit of or relatable to such gratuity, welfare or other fund shall vest in the corresponding unit of the Integral Company or other transferee company, as the case may be.

Gratuity,  
welfare  
and other  
funds.

## CHAPTER V

### FINANCIAL PROVISIONS

**21. (1)** The Integral Company shall be liable to pay any sum under the provisions of the Income-tax Act or the Companies (Profits) Surtax Act which any dissolved company would have been liable to pay if the dissolution had not taken place, in the like manner and to the same extent as the dissolved company.

Provisions  
with re-  
spect to  
income-  
tax and  
surtax

(2) For the purpose of making an assessment of the income or, as the case may be, the chargeable profits of any dissolved company and for the purpose of levying any sum in accordance with the provisions of sub-section (1),—

(a) any proceeding taken against any dissolved company before the appointed day shall be deemed to have been taken against the Integral Company and may be continued against the Integral Company from the stage at which it stood immediately before the appointed day;

(b) any proceeding which could have been taken against any dissolved company if the dissolution had not taken place, may be taken against the Integral Company; and

(c) all the provisions of the Income-tax Act or, as the case may be, the Companies (Profits) Surtax Act shall apply accordingly

(3) The assessment of the income or, as the case may be, the chargeable profits of the previous year of any dissolved company in which the dissolution took place up to the appointed day shall be made as if such dissolution had not taken place, and all the provisions of the Income-tax Act and the Companies (Profits) Surtax Act shall, so far as may be, apply accordingly.

(4) The transfer to, and vesting in, the undertaking of any dissolved company in the Integral Company under the provisions of this Act shall be deemed to be an amalgamation in relation to such companies and the provisions of the Income-tax Act shall, so far as may be, apply accordingly as if references in the said Act to the amalgamating company and the amalgamated company were references to the dissolved company and the Integral Company respectively.

(5) Where any capital asset forming part of any undertaking belonging to the transferred unit or, as the case may be, the Hindustan Steel Limited is, in pursuance of section 5 or section 6 or section 7, transferred to, and vests in, the Integral Company or the Bharat Refractories Limited or, as the case may be, the Metallurgical and Engineering Consultants (India) Limited, such capital asset shall be deemed to have been transferred in a scheme of amalgamation and the provisions of the

Income-tax Act shall, so far as may be, apply accordingly as if references in the said Act to the amalgamating company were references to the transferred unit or, as the case may be, the Hindustan Steel Limited and the references to the amalgamated company, being an Indian company, were references to the Integral Company or the Bharat Refractories Limited or, as the case may be, the Metallurgical and Engineering Consultants (India) Limited.

(6) The accumulated loss and the unabsorbed depreciation, if any, of any dissolved company shall be deemed to be the loss or, as the case may be, allowance for depreciation of the Integral Company for the previous year in which the undertaking of the dissolved company vested in the Integral Company, and the provisions of the Income-tax Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

(7) The provisions of sub-sections (1) to (6) shall have effect notwithstanding anything to the contrary contained in the Income-tax Act or the Companies (Profits) Surtax Act.

*Explanation.*—For the purposes of this section,—

(a) "Income-tax Act" means the Income-tax Act, 1961,

43 of 1961

(b) "Companies (Profits) Surtax Act" means the Companies (Profits) Surtax Act, 1964;

7 of 1964.

(c) words and expressions used in this section and not defined in this Act but defined in the Income-tax Act or the Companies (Profits) Surtax Act shall have the meanings respectively assigned to them in the said Acts.

Taxes,  
fees and  
other  
charges  
not pay-  
able

**22.** For the removal of doubts, it is hereby declared that no taxes, duties, fees or other charges of whatever nature (including registration charges), shall be payable in respect of any transfer of shares or transfer of any undertakings or transfer of any immovable property under the provisions of this Act.

## CHAPTER VI

### MISCELLANEOUS

Saving  
of con-  
tracts,  
etc.

**23** (1) All contracts, deeds, bonds, agreements and other instruments of whatever nature to which the dissolved company is a party subsisting or having effect immediately before the appointed day, shall, as from that day, be of full force and effect against, or in favour of the Integral Company or other transferee company, as the case may be, and may be enforced as fully and effectually as if, instead of the dissolved company, the Integral Company or other transferee company had been a party thereto

(2) All contracts, deeds, bonds, agreements and other instruments of whatever nature to which the company in respect of a transferred unit is a party if and in so far as it relates to matters pertaining to the undertakings of the transferred unit, subsisting or having effect immediately before the appointed day, shall, as from that day, be of full force and effect against, or in favour of the Integral Company or other transferee

company, as the case may be, and may be enforced as fully and effectually as if, instead of such company, the Integral Company or other transferee company had been a party thereto.

**24.** If, on the appointed day, there is pending any suit, arbitration, appeal or other legal proceeding of whatever nature by or against a dissolved company, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer under the provisions of this Act to the Integral Company or any other transferee company, as the case may be, of the undertakings of the dissolved company or of anything contained in this Act, but the suit, arbitration, appeal or other proceeding may be continued, prosecuted and enforced by or against the Integral Company or other transferee company, as the case may be, in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against the dissolved company if this Act had not been passed.

Saving of legal proceedings.

**25.** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary, for the removal of the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of three years from the appointed day.

**26.** The provisions of this Act or of any order made thereunder shall have effect notwithstanding anything contained in the Companies Act or in any other law for the time being in force or in any contract, express or implied, or in any rules or regulations having effect by virtue of any law other than this Act.

Act to override the provisions of other laws.

**27.** (1) For the purpose of giving effect to the provisions of this Act, the Central Government may, by notification in the Official Gazette, make such amendments in the memorandum or articles of association, or both, of the Integral Company or other transferee company.

Power to amend memorandum and articles of association.

(2) Any amendments in the memorandum or articles of association of the Integral Company or other transferee company made in pursuance of sub-section (1) shall have effect notwithstanding anything contained in the Companies Act.

## THE FIRST SCHEDULE

[See sections 2(d) and 4]

1. Bhilai Ispat Limited, a company formed and registered under the Companies Act having its registered office at Bhilai in the State of Madhya Pradesh

2. Bokaro Steel Limited, a company formed and registered under the Companies Act having its registered office at Bokaro Steel City in the State of Bihar.

3. Durgapur Mishra Ispat Limited a company formed and registered under the Companies Act having its registered office at Durgapur in the State of West Bengal.

4. Hindustan Steel Limited, a company formed and registered under the Companies Act having its registered office at Ranchi in the State of Bihar.

5. Rourkela Ispat Limited, a company formed and registered under the Companies Act having its registered office at Rourkela in the State of Orissa.

6. SAIL International Limited, a company formed and registered under the Companies Act having its registered office at Calcutta in the State of West Bengal.

7. Salem Steel Limited, a company formed and registered under the Companies Act having its registered office at Salem in the State of Tamil Nadu.

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#### THE SECOND SCHEDULE

(See section 9)

1. Metallurgical and Engineering Consultants (India) Limited, a company formed and registered under the Companies Act having its registered office at Ranchi in the State of Bihar.

2 Hindustan Steelworks Construction Limited, a company formed and registered under the Companies Act having its registered office at Calcutta in the State of West Bengal.

3. National Mineral Development Corporation Limited, a company formed and registered under the Companies Act having its registered office at Hyderabad in the State of Andhra Pradesh.

4. Manganese Ore (India) Limited, a company formed and registered under the Companies Act having its registered office at Nagpur in the State of Maharashtra.

5. Mandovi Pellets Limited, a company formed and registered under the Companies Act having its registered office at Mormugao Harbour in the Union territory of Goa, Daman and Diu.

### STATEMENT OF OBJECTS AND REASONS

There are at present six integrated steel plants in the country with a total installed capacity of 10.6 million tonnes of ingot steel. Of these, five steel plants with an aggregate capacity of 8.6 million tonnes are in the public sector. The plants at Bhilai, Durgapur and Rourkela are owned and managed by Hindustan Steel Limited and the plant at Bokaro by Bokaro Steel Limited, both the companies being wholly-owned subsidiaries of Steel Authority of India Limited. The fifth plant at Burnpur is under the Indian Iron and Steel Company Limited whose majority shares were acquired by Government in July, 1976. Bhilai and Bokaro Steel Plants are being expanded and this will raise the total steel production capacity in the public sector to 12.4 million tonnes. Steel Authority of India Limited also has a number of other subsidiaries concerned with activities allied to steel production such as provision of consultancy, design and engineering services for ferrous and non-ferrous enterprises, heavy construction/erection work connected with steel and other sectors, development and operation of major mechanised iron ore mines to meet the demands for export and from steel plants, etc.

2. It is essential for proper development of the steel industry that public sector steel plants achieve maximum production and are managed with the greatest efficiency. For this purpose, it would be advisable to bring these plants under the overall control of an Integral Company which should function, to the maximum extent possible, as an integrated steel complex and all activities which are not directly related to steel production are kept outside its purview. Having regard to the present nature of these activities and potentialities for the future, it would also be greatly advantageous if the units/companies concerned therewith function directly under Government. Accordingly the present set-up is being reorganised broadly as under:—

(i) Hindustan Steel Limited, Bokaro Steel Limited, Salem Steel Limited, SAIL International Limited, Bhilai Ispat Limited, Rourkela Ispat Limited and Durgapur Mishra Ispat Limited, wholly-owned subsidiaries of Steel Authority of India Limited (SAIL), will be merged in SAIL and will function as units of SAIL.

(ii) The shares presently held by Government in Indian Iron and Steel Company Limited will be transferred to SAIL and it will become a subsidiary of SAIL.

(iii) Metallurgical and Engineering Consultants (India) Limited, Hindustan Steelworks Construction Limited and National Mineral Development Corporation Limited, wholly-owned subsidiaries of SAIL, will become independent companies under the direct administrative control of Department of Steel. Kiriburu and Meghahatuburu Iron Ores Mines of National Mineral Development Corporation Limited will be transferred to SAIL to serve as captive units of Bokaro Steel Plant.

(iv) Bharat Refractories Limited, a wholly-owned subsidiary of Bokaro Steel Limited will become an independent company directly under the Department of Steel and other refractory units will also come under it.

3. Restructuring as aforesaid is undertaken to secure better management of, and greater efficiency in, the working of public sector steel plants. The terms and conditions applicable to the employees would remain unaltered.

4. The Bill seeks to achieve the above objects,

BIJU PATNAIK.

NEW DELHI;  
*The 14th December, 1977.*

## BILL No. 153 OF 1977

*A Bill further to amend the Representation of the People Act, 1951 and the Indian Penal Code.*

BE it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Election Laws (Amendment) Act, 1977. Short title.

2. In the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), in sub-section (1) of section 77,— Amend-  
ment of  
section  
77.

(a) for the words “the date on which he has been nominated”, the words “the date of publication of the notification calling the election” shall be substituted;

(b) *Explanation 1, Explanation 2 and Explanation 3* shall be omitted.

3. In section 79 of the principal Act, for clause (b), the following clause shall be substituted, namely:— Amend-  
ment of  
section  
79.

‘(b) “candidate” means a person who has been or claims to have been duly nominated as a candidate at any election and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate;’.

Amend-  
ment of  
section  
123.

4. In section 123 of the principal Act,—
  - (a) in clause (3), the proviso shall be omitted;
  - (b) in clause (7), the proviso shall be omitted;
  - (c) in the *Explanation* at the end, paragraph (3) shall be omitted.

Amend-  
ment of  
section  
171A of  
Act 45 of  
1860.

5. In the Indian Penal Code, in section 171A, for clause (a), the following clause shall be substituted, namely.—

‘(a) “candidate” means a person who has been nominated as a candidate at any election and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate thereat; provided that he is subsequently nominated as a candidate at such election.’

## STATEMENT OF OBJECTS AND REASONS

The Representation of the People (Amendment) Act, 1974 (58 of 1974) and the Election Laws (Amendment) Act, 1975 (40 of 1975) effected certain amendments in the Representation of the People Act, 1951 (43 of 1951) *inter alia* to provide that the expenditure incurred or authorised by a political party or any other association or body of persons or by any individual (other than the candidate or his election agent) shall not be deemed to be expenditure in connection with the election incurred or authorised by the candidate or by his election agent and also to remove the concept of "election in prospect", so that the ban contemplated for the purposes of corrupt practices would apply only from the date of filing of the nomination (instead of from the time when, with the election in prospect, the candidate began to hold himself out as a prospective candidate) till the date of declaration of the result.

2. The Election Laws (Amendment) Act, 1975 also made amendments to section 123 (relating to corrupt practices) of the Representation of the People Act, 1951, for the following purposes:—

(i) exclusion of a symbol allotted by the Election Commission from being challenged as a religious symbol under section 123(3);

(ii) exclusion of the acts, such as making arrangements or providing facilities in connection with an election by a person in the service of the Government, from being construed as obtaining the assistance of the prohibited category of persons enumerated in section 123(7); and

(iii) making the publication in the Official Gazette of the appointment, resignation or termination, dismissal or removal from service of a person in the service of the Government, a conclusive proof of such appointment, resignation, etc.

3. The Election Laws (Amendment) Act, 1975 also amended section 171A of the Indian Penal Code so as to define the expression "candidate" occurring therein, as meaning a person who has been nominated as a candidate at any election.

4. It is considered that the amendments made in the Representation of the People Act, 1951 and the Indian Penal Code, referred to above, far from ensuring free and fair elections, may have the effect of increasing money power and the chances of misuse of official machinery at elections. It is, therefore, proposed to amend the said Acts to restore the position that obtained earlier.

5. The Bill seeks to achieve the above object.

NEW DELHI;

The 17th December, 1977.

SHANTI BHUSHAN.

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AVTAR SINGH RIKHY,

Secretary.

